

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESale PRICE  
LITIGATION

)  
) MDL NO. 1456  
) Civil Action No. 01-12257-PBS  
) Subcategory No. 03-10643

THIS DOCUMENT RELATES TO:

*The City of New York, et al.*

v.

*Abbott Laboratories, Inc., et al.*

)  
) Judge Patti B. Saris  
)  
)  
)  
)

**JUNE 2010 STATUS REPORT ON BEHALF OF  
THE CITY OF NEW YORK AND NEW YORK COUNTIES**

The undersigned counsel for the City of New York and New York Counties in the above-captioned action (hereinafter referred to as “plaintiffs”) hereby submit the attached Status Report for June 2010, in accordance with the Court’s June 17, 2004 Procedural Order.

Dated: June 2, 2010

Respectfully submitted,

**City of New York and New York Counties in  
MDL 1456 except Nassau and Orange, by**

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By: /s/ Joanne M. Cicala

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**June 2010 Status Report on Behalf of the  
City of New York and New York Counties**

**FUL Summary Judgment Briefing**

On May 4, 2010, the court denied defendants Motion to Amend the Courts February 2, 2010 Memorandum and Order and Order to Include a Certificate for Immediate Appeal and granted defendant Dey's motion to amend the Court's February 9, 2010 on the FUL. *See* the court's May, 4 2010, Electronic Order.

**Discovery**

**1. Joint Motion to Modify the Expert Discovery Schedule**

On May 17, 2010, plaintiffs and defendants filed a joint motion to extend the expert discovery schedule. *See* Docket No. 7110, Sub-docket 235. This motion remains *sub judice*.

**2. Motion to Compel Discovery from Defendant Merck**

On September 4, 2009, plaintiffs filed their Motion to Compel Discovery from Defendant Merck for all at-issue drugs with annual AMP/AWP spreads over 30 percent. *See* Docket. No. 6487; Sub-docket. No.158.

On October 5, 2009, Merck filed its opposition to plaintiffs' motion to compel. *See* Docket No. 6572, Sub-docket No. 168.

On October 23, 2009, plaintiffs filed their Motion for Leave to File Reply Memorandum in Further Support of Plaintiffs' Motion to Compel Discovery from Defendant Merck & Co., Inc., and Exhibits to the Declaration of Joanne M. Cicala in Support Thereof Under Seal. *See* Docket No. 6609, Sub-docket No. 175. This motion remains *sub-judice*.

**3. Schering's Motion for a Protective Order**

On March 5, 2010, Defendant Schering filed a Motion and Memorandum in Support for a Protective Order in order to quash a Notice of Depositions served by plaintiffs on March 1, 2010.

*See* Docket No. 6964, Sub-docket 213; Docket No. 6965, Sub-docket 214.

On March 26, 2010 plaintiffs filed their opposition to Defendant Schering's Motion for Protective Order. *See* Docket No. 7009, Sub-docket No. 217. This motion remains *sub-judice*.

**4. Defendants' Motion to Compel the production of privileged documents withheld by New York State Department of Health ("NY DOH")**

On December 23, 2009, defendants filed a motion to compel production of all documents which NY DOH has withheld on the basis of the deliberative process privilege. *See* Docket No. 6810, Sub-docket No. 191. On January 20, 2010, the office of the New York Attorney General filed its Opposition to Defendants' Joint Motion to Compel the Production of Documents from NY DOH. *See* Docket No. 6852; Sub-docket 197. This motion remains *sub-judice*.

**Voluntary Dismissal of Claims**

On May 14, 2010 plaintiffs filed a stipulation of dismissal of claims against defendant Dey. *See* Docket No. 7109, Sub-docket 233.

**CERTIFICATE OF SERVICE**

I, Kathryn Allen, hereby certify that on the 2nd day of June, 2010, I caused a true and correct copy of the above June 2010 Status Report for the City of New York and New York Counties to be delivered to counsel of record for defendants by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL No. 1456.

Dated: June 2, 2010

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